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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

DOMINIQUE TERRELL DAVIS,

Defendant and Appellant.

D061161

(Super. Ct. Nos. SCD233702,  
SCE297341, SCS239419)

APPEAL from a judgment of the Superior Court of San Diego County, David M. Gill, Judge. Affirmed.

FACTUAL AND PROCEDURAL BACKGROUND

On the morning of April 21, 2011, appellant Dominique Terrell Davis was the driver of a black Ford Expedition which carried two of his confederates, Walter McKnight and Daitwon Futrell. Between 11:27 a.m. and 11:39 a.m., Davis stopped the truck twice, McKnight and Futrell got out and committed two strong arm robberies in which Futrell put each victim in a chokehold, went through their pockets and took cell phones from both victims as well as an iPod from one of the victims. Shortly after the

second robbery, police located the Expedition and apprehended Davis and McKnight.

Davis told the police about his role in driving the Expedition while Futrell committed the robberies.

Davis was charged with two counts of robbery. (Pen. Code,<sup>1</sup> § 211.) In addition, the information alleged Davis had two prior convictions within the meaning of section 1203, subdivision (e)(4) (probation denials), two prior convictions within the meaning of sections 667, subdivision (a)(1), 668, and 1192.7, subdivision (c) (serious felonies), and two prior convictions within the meaning of 667, subdivisions (b) through (i), 668, and 1170.12 (strikes). Davis pled guilty to the robberies and the trial court struck one of the strike priors. The trial court sentenced Davis to a total of 14 years on the robbery counts and the priors. Davis filed a timely notice of appeal.

## DISCUSSION

Davis's appointed appellate counsel has filed a brief setting forth the underlying facts and procedural history and presenting no argument for reversal but asking this court to review the record for error in accordance with *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738 [87 S.Ct. 1396], counsel refers to the following possible, but not arguable, issue: (1) Did the trial court properly exercise its discretion in sentencing Mr. Davis in this matter?

We granted Davis permission to file a brief on his own behalf and he responded, contending there was insufficient evidence to support the robbery convictions and hence

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise indicated.

no factual basis for his plea. In particular, Davis relies on statements one of his codefendants and one of the victims made at the preliminary hearing. Our review of the record shows there was a factual basis for his plea. We note that at the time of Davis's plea, the trial court inquired of him if he was pleading guilty "based on the facts that were presented at the preliminary hearing in this case?" He responded in the affirmative. We have also reviewed the transcript of the preliminary hearing, which contains ample evidence of Davis's role as driver of the Ford Expedition, as well as Davis's admissions at the time of his arrest.

We have reviewed the entire record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and considered the possible issues referred to by counsel; we find no reasonably arguable appellate issue and conclude that Davis has been represented by competent counsel on this appeal.

#### DISPOSITION

The judgment is affirmed.

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BENKE, Acting P. J.

WE CONCUR:

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HUFFMAN, J.

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McDONALD, J.